

the secret contents of a second patent application, each kept in strictest secrecy by the USPTO pursuant to 37 CFR section 1.14. Unless the Examiner is prepared to point to some disclosure dating from October of 2000 that would have enabled one skilled in the art to learn such secret contents at the long-past time when the invention was made, it is respectfully suggested that these references cannot be combined as suggested by the Examiner and thus that the rejection should be withdrawn for this reason.

The invention was, in any event, made prior to the filing date of Camp. Camp was filed October 27, 2000, and the invention was made prior to that date, as will now be shown.

It will be recalled that on November 26, 2003 this application was made "special" because the state of health of the inventor, Paul Giotta, was such that he might not be able to assist in the prosecution of the application if it were to run its normal course. Mr. Giotta is now deceased (see Declaration of Peter Walser, paragraph 1, attached). It is not now possible to know what inventor Giotta might have been able to present in response to these two references had they been cited earlier. Instead, only the survivors of inventor Giotta are now able to assist in the prosecution of the application and to respond to the two newly cited references.

Attached please find the Declaration of Dr. Peter Walser, the patent attorney who drafted the patent application that was given serial number 09/750,009. Dr. Walser explains that one of the source documents setting forth the invention (attached as Exhibit A) was changed no later than September 19, 2000. Dr. Walser further explains that one of the drafts of the patent application (attached as Exhibit C) was dated October 6, 2000 and later dates. He explains that the parts shown as unchanged in Exhibit C thus date from no later than October 6, 2000. Dr. Walser explains that from Exhibit D it may be seen that the elements of various of the pending claims may be found in the documents of Exhibits A and C. From this it may be appreciated that the date of invention is no later than September 19, 2000.

Dr. Walser also discusses email messages dated October 9 and 10, 2000, and November 23 and 28, 2000, as well as December 8, 13, 17, 19, and 20, 2000, all relating to the continued activity directed toward the filing of the present patent application (Exhibits E through L).

Dr. Walser also discusses his letter of December 21, 2000 (Exhibit M) to the undersigned, directing the undersigned to file the patent application in the United States Patent and Trademark Office. The Federal Express package described in the December 21, 2000 letter arrived in the office of the undersigned on December 27, 2000, and we filed the application with the USPTO on that very day.

It is thus suggested that the applicant has successfully "sworn behind" the cited reference Camp.

Reconsideration and allowance are requested.

Respectfully submitted,



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